

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
AT WINCHESTER

|                      |   |                 |
|----------------------|---|-----------------|
| ANITA SMITHSON,      | ) |                 |
|                      | ) |                 |
| Plaintiff            | ) |                 |
|                      | ) |                 |
| v.                   | ) | No. 4:04-cv-101 |
|                      | ) |                 |
| JO ANNE B. BARNHART, | ) |                 |
| Commissioner of      | ) |                 |
| Social Security,     | ) |                 |
|                      | ) |                 |
| Defendant            | ) |                 |

**MEMORANDUM AND ORDER**

This action was referred to a United States magistrate judge of this district pursuant to 28 U.S.C. § 636(b) and Rule 72(b), Federal Rules of Civil Procedure, for a report and recommendation regarding the disposition of plaintiff's motion for summary judgment [Court File #13] and defendant's motion for summary judgment [Court File #16]. In a report and recommendation filed on December 6, 2005, the United States magistrate judge recommended that plaintiff's motion be denied and defendant's motion be granted. No objections to the report and recommendation have been filed.

Upon a *de novo* review of the record in this case and the magistrate judge's report and recommendation, I am in agreement with the United States magistrate judge. Specifically, there is substantial evidence in the record that there are significant numbers of jobs existing in the national economy which the plaintiff can perform.

In light of the foregoing, the report and recommendation [Court File #18] is ACCEPTED IN WHOLE, whereby plaintiff's motion for summary judgment [Court File #13] is DENIED; defendant's motion for summary judgment [Court File #16] is GRANTED; and the final decision of the defendant Secretary is AFFIRMED.

**E N T E R :**

*s/ James H. Jarvis*  
UNITED STATES DISTRICT JUDGE